

House File 607

AN ACT

RELATING TO THE STATE GOVERNMENT, BY PROVIDING FOR THE TRANSFER OF POWERS AND DUTIES FROM THE AGRICULTURAL DEVELOPMENT AUTHORITY TO THE IOWA FINANCE AUTHORITY, THE COMPOSITION OF THE IOWA FINANCE AUTHORITY BOARD OF DIRECTORS, IMPLEMENTATION OF LAW BY THE BOARD, AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

GENERAL PROVISIONS

Section 1. Section 16.1, subsection 1, Code 2013, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *0c.* "Board" means the Iowa finance authority board of directors created pursuant to section 16.2.

NEW PARAGRAPH. *Oj.* "*Executive director*" means the executive director of the Iowa finance authority as appointed pursuant to section 16.6.

Sec. 2. NEW SECTION. 16.1A Creation — administration of programs.

1. The Iowa finance authority is created, and constitutes a public instrumentality and agency of the state exercising public and essential governmental functions.

2. The authority shall undertake and administer the following:

a. Programs established under this chapter to assist in attainment of adequate housing for low- or moderate-income families, elderly families, and families which include one or more persons with disabilities, and to undertake the various finance programs under this chapter.

b. Programs which assist qualified farmers or agricultural producers, including beginning farmers, as provided in chapter 175.

3. The Iowa finance authority board of directors shall have general control, supervision, and regulation of all authority programs established under this chapter and chapter 175. The authority is charged with the broad administrative authority to make, administer, interpret, construe, repeal, and execute the rules, and to administer, interpret, construe, and execute the laws of this state relating to such programs. The board may, by resolution, delegate to the agricultural development board, executive director, or other authority employee such of its powers, under such terms and conditions, as it deems appropriate.

Sec. 3. Section 16.2, subsection 1, Code 2013, is amended to read as follows:

1. ~~The Iowa finance authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions, to undertake programs which assist in attainment of adequate housing for low or moderate income families, elderly families, and families which include one or more persons with disabilities, and to undertake the various finance programs.~~ An Iowa finance authority board of directors is created. The powers of the authority are vested in and shall be exercised by a the board of. The board includes nine members appointed by the governor subject to confirmation by the senate.

a. ~~No~~ Not more than five members shall belong to the same

political party.

b. As far as possible, the governor shall include within the membership persons who represent community and housing development industries, housing finance industries, the real estate sales industry, elderly families, minorities, lower income families, very low income families, families which include persons with disabilities, average taxpayers, local government, business interests, and any other person specially interested in community housing, finance, or small business.

Sec. 4. Section 16.2A, subsections 5 and 7, Code 2013, are amended to read as follows:

5. Members of the board and the executive director shall give bond as required for public officers in chapter 64.

7. Members shall elect a chair and vice chair annually and other officers as they determine. The executive director shall serve as secretary to the board.

Sec. 5. Section 16.103, subsection 1, Code 2013, is amended to read as follows:

1. Make secured and unsecured loans for both the acquisition and the construction of projects on terms the authority determines. ~~Any loan made with respect to any project for which a loan may be made pursuant to chapter 175 shall be made only upon the request and with the consent of the agricultural development authority. The loans~~ A loan may be made to any person or entity including, but not limited to, a city, ~~a or county, and the agricultural development authority for projects~~ a project approved by the Iowa finance authority. The Iowa finance authority may take any action which is reasonable and lawful to protect its security and to avoid losses from its loans.

Sec. 6. NEW SECTION. 16.221 **Agricultural development division — administration of programs.**

1. An agricultural development division is created within the authority. The division shall administer chapter 175, by providing assistance to beginning farmers, agricultural producers, displaced farmers, or other persons qualifying for such assistance under chapter 175.

2. The agricultural development division shall be administered in accordance with the policies of the agricultural development board created in section 175.3. The executive director of the authority may organize the division and employ necessary qualified personnel to administer this chapter and chapter 175.

3. The division shall, to every extent practical, assist such persons to do all of the following:

*a.* Acquire agricultural land, agricultural improvements, or depreciable agricultural property, including as provided in section 175.12 or 175.33.

*b.* Implement the installation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land, including as provided in section 175.34.

*c.* Obtain affordable operating capital, including as provided by section 175.35.

*d.* Begin or expand beef cattle operations, including as provided in section 175.36.

*e.* Obtain agricultural assets transfer tax credits, including by issuing tax credit certificates pursuant to section 175.37.

*f.* Develop programs to assist qualified agricultural producers within the state with financing other capital requirements or operating expenses.

4. A program established in chapter 175 may be combined with any other program established in this chapter, or a federal program, in order to facilitate, as far as practical, the types of assistance described in this section.

5. The net earnings of the division, beyond that necessary for retirement of its notes, bonds, or other obligations or to implement the public purposes and programs authorized in this chapter or chapter 175, shall not inure to the benefit of any person other than the state.

6. *a.* At least two of the authority's full-time equivalent positions, as defined in section 8.36A, shall be entirely dedicated to administering programs established pursuant to chapter 175. One of those full-time equivalent positions shall be dedicated to overseeing the administration of those programs, and to the extent that the programs are affected, the full-time equivalent position shall be provided the powers and duties necessary to do all of the following:

- (1) Participate in making managerial decisions.
- (2) Provide for outreach and promotion.
- (3) Improve delivery of services.

*b.* This subsection is repealed on July 1, 2015.

Sec. 7. Section 175.2, subsection 1, paragraph e, Code 2013, is amended to read as follows:

*e.* "Authority" means the ~~agricultural development~~ Iowa

finance authority established created in section ~~175.3~~ 16.1A.

Sec. 8. Section 175.2, subsection 1, Code 2013, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *Oh.* "*Board*" means the agricultural development board created in section 175.3.

NEW PARAGRAPH. *Ok.* "*Executive director*" means the executive director of the Iowa finance authority appointed pursuant to section 16.6.

Sec. 9. Section 175.3, Code 2013, is amended by striking the section and inserting in lieu thereof the following:

**175.3 Agricultural development board.**

1. The powers of the agricultural development division, created within the Iowa finance authority under section 16.221, are vested in and shall be exercised by the agricultural development board as provided in section 16.221 and this section.

2. The agricultural development board is created to exercise all powers and perform all duties necessary to administer this chapter according to policies established by the Iowa finance authority. The authority shall establish policies and practices for the division and oversee its operations. The authority may review or approve decisions affecting the division or administration of this chapter, including decisions of the agricultural development board.

3. The agricultural development board consists of five members appointed by the governor. The executive director of the Iowa finance authority or the executive director's designee shall serve as an ex officio nonvoting member.

4. The appointed members of the agricultural development board shall be appointed and retain office as follows:

*a.* Not more than three members shall belong to the same political party.

*b.* As far as possible the governor shall include within the membership persons who represent financial institutions experienced in agricultural lending, real estate sales, farmers, beginning farmers, average taxpayers, local government, soil and water conservation district officials, agricultural educators, and other persons specially interested in family farm development.

*c.* Members shall serve for staggered terms of six years beginning and ending as provided in section 69.19. A person appointed to fill a vacancy shall serve only for the unexpired portion of the member's term. A member is eligible for

reappointment. An appointed member may be removed from office by the governor for misfeasance, malfeasance, willful neglect of duty, or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.

5. The agricultural development board shall conduct business according to all of the following:

*a.* Three appointed members constitute a quorum and the affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the board. A majority of appointed members shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

*b.* Meetings of the board shall be held at the call of the chairperson or whenever two appointed members so request.

*c.* The appointed members shall elect a chairperson and vice chairperson annually, and other officers as they determine. The executive director of the Iowa finance authority or the executive director's designee shall serve as secretary to the board.

6. An appointed member of the agricultural development board is entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as a member, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as a member.

7. An appointed member of the agricultural development board shall give bond as required for public officers in chapter 64.

Sec. 10. Section 175.4, subsection 11, Code 2013, is amended to read as follows:

11. It is necessary to create an ~~agricultural development~~ authority to encourage ownership of farms by beginning farmers by providing purchase money loans to beginning farmers who are not able to obtain adequate capital elsewhere to provide such funds and to lower costs through the use of public financing.

Sec. 11. Section 175.5, unnumbered paragraph 1, Code 2013, is amended to read as follows:

In the performance of its duties, implementation of its powers, selection of specific programs and projects to receive its assistance under this chapter, the authority shall be guided by the following principles:

Sec. 12. Section 175.6, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The authority has all of the general powers needed to carry out its purposes and duties, and to exercise its specific powers, under this chapter including but not limited to the power to do any of the following:

Sec. 13. Section 175.8, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

~~The authority shall submit to the governor and to the members of the general assembly as request it, not later than January 15 of each year, a complete and economically designed and reproduced~~ As part of the authority's report setting forth: required in section 16.7, the authority shall detail its activities under this chapter, which shall include all of the following:

Sec. 14. Section 175.8, subsections 3 and 4, Code 2013, are amended to read as follows:

~~3. For fiscal years beginning on or after July 1, 2007, the auditor of state shall conduct an annual audit of the agricultural development authority to be paid from resources of the authority notwithstanding any other audit conducted on behalf of the authority's board of directors. The auditor of state may acquire the services of an outside audit firm, if necessary, to conduct the audit as required in this subsection.~~

~~4. 3.~~ The authority's executive director, ~~appointed pursuant to section 175.7,~~ shall report semiannually to the general assembly's standing committees on government oversight regarding the operations of the authority.

Sec. 15. Section 175.26, Code 2013, is amended by striking the section and inserting in lieu thereof the following:

**175.26 Conflicts of interest.**

The requirements and procedures for conflicts of interest by a member or employee of the authority set forth in section 16.3A shall also apply to this chapter.

Sec. 16. REPEAL. Section 175.7, Code 2013, is repealed.

Sec. 17. EFFECTIVE DATE. This division of this Act takes effect on July 1, 2013.

**DIVISION II**

**COORDINATING PROVISIONS**

Sec. 18. Section 7C.4A, subsection 4, Code 2013, is amended to read as follows:

4. Twenty-one percent of the state ceiling shall be allocated to qualified small issue bonds issued for first-time

farmers under chapter 175. However, at any time during the calendar year the governor's designee, with the approval of the Iowa ~~agricultural development~~ finance authority, may determine that a lesser amount need be allocated to qualified small issue bonds for first-time farmers and on that date this lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 7.

Sec. 19. Section 12.28, subsection 1, paragraph b, Code 2013, is amended to read as follows:

*b. "State agency"* means a board, commission, bureau, division, office, department, or branch of state government. However, state agency does not mean the state board of regents, institutions governed by the board of regents, or authorities created under chapter 16, ~~175~~, 257C, or 261A.

Sec. 20. Section 12.30, subsection 1, paragraph a, Code 2013, is amended to read as follows:

*a. "Authority"* means a department, or public or quasi-public instrumentality of the state including but not limited to the authority created under chapter 12E, 16, ~~175~~, 257C, 261A, or 463C, which has the power to issue obligations, except that *"authority"* does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 260C. *"Authority"* also includes a port authority created under chapter 28J.

Sec. 21. Section 16.1, subsection 1, paragraph b, Code 2013, is amended to read as follows:

*b. "Authority"* means the Iowa finance authority ~~established~~ created in section ~~16.2~~ 16.1A.

Sec. 22. Section 159.18, subsection 1, Code 2013, is amended to read as follows:

1. As used in this section, *"farm programs"* includes, but is not limited to, financial incentive programs established within the division of soil conservation of the department of agriculture and land stewardship as provided in section 161A.70 and the beginning farmer loan program administered by the ~~agricultural development~~ Iowa finance authority as provided in section 175.12.

Sec. 23. Section 422.7, subsection 19, Code 2013, is amended to read as follows:

19. Subtract interest earned on bonds and notes issued by the ~~agricultural development~~ Iowa finance authority as provided in section 175.17, subsection 10.

Sec. 24. Section 422.35, subsection 13, Code 2013, is



amended to read as follows:

13. Subtract the interest earned from bonds and notes issued by the ~~agricultural development~~ Iowa finance authority as provided in section 175.17, subsection 10.

Sec. 25. Section 455B.291, subsection 2, Code 2013, is amended to read as follows:

2. "Authority" means the Iowa finance authority ~~established~~ created in section ~~16.2~~ 16.1A.

Sec. 26. Section 502.201, subsection 9B, Code 2013, is amended to read as follows:

9B. ~~Agricultural development~~ Iowa finance authority. Any security issued by the ~~agricultural development~~ Iowa finance authority under chapter 175.

Sec. 27. EFFECTIVE DATE. This division of this Act takes effect on July 1, 2013.

#### DIVISION III

##### TRANSITIONAL PROVISIONS — GENERAL

Sec. 28. ADMINISTRATIVE RULES AND OTHER ACTIONS AND DOCUMENTS. Any rule, regulation, form, order, or directive promulgated by agricultural development authority under the umbrella of the department of agriculture and land stewardship pursuant to section 175.3, Code 2013, as required to administer and enforce the provisions of chapter 175 shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the Iowa finance authority.

Sec. 29. PENDING ADMINISTRATIVE OR JUDICIAL PROCEEDINGS.

1. An administrative or judicial proceeding arising under chapter 175 pending on the effective date of this division of this Act shall not be affected due to this Act.

2. Any cause of action or statute of limitation relating to an action taken by a party in a matter arising under chapter 175 shall not be affected by this Act, except that the Iowa finance authority shall replace the agricultural development authority as a party.

3. The department of agriculture and land stewardship or the office of attorney general acting on behalf of the agricultural development authority in an administrative or judicial proceeding shall not be affected as result of this Act. Any statute of limitation shall apply to the parties as if this Act had not been enacted.

Sec. 30. PERSONNEL. Any personnel in the state merit system of employment who are transferred due to the effect of this Act shall be so transferred without any loss in salary, benefits,

or accrued years of service.

Sec. 31. REPLACEMENT ITEMS. Any replacement of signs, logos, stationery, insignia, uniforms, and related items that are made due to the effect of this Act shall be done as part of the normal replacement cycle for such items.

Sec. 32. APPOINTMENTS. In making appointments to the agricultural development board as created in section 175.3, as enacted in this Act, the governor shall appoint a number of initial members to serve for less than six years to ensure that members serve staggered terms.

Sec. 33. OUTSTANDING LEGAL OBLIGATIONS AND RIGHTS. Any interest in real property, tangible personal property, or intangible personal property held by the agricultural development authority shall be transferred to the Iowa finance authority. Any property right, security interest, or lien held by the agricultural development authority shall vest in the Iowa finance authority without an instrument of transfer including but not limited to a deed, contract, or endorsement. However, nothing in this section prohibits the execution of such instrument if the Iowa finance authority determines it is necessary or prudent. Any debt, obligation, or liability incurred by the agricultural development authority shall be assumed by the Iowa finance authority, and shall continue according to the same terms and conditions as applied to the agricultural development authority. Any right or benefit arising from a legal instrument in which the agricultural development authority was a party shall be transferred to the Iowa finance authority and shall continue as if the transfer had not occurred.

Sec. 34. ADMINISTRATION OF ONGOING PROGRAMS. The Iowa finance authority shall complete the administration of ongoing programs of the agricultural development authority as provided in chapter 175, to the extent that the administration of those programs are in progress on the effective date of this Act. The Iowa finance authority shall assume all rights and obligations of the agricultural development authority to the extent that moneys have been committed, obligations incurred, or rights accrued prior to the effective date of this Act. Moneys owing due to the rights and obligations of the agricultural development authority and assumed by the Iowa finance authority shall be paid as directed by the Iowa finance authority.

Sec. 35. IOWA RURAL REHABILITATION CORPORATION.

1. The assets and liabilities of the former Iowa rural rehabilitation corporation assumed by the agricultural development authority pursuant to section 175.28 shall be transferred to the Iowa finance authority on the effective date of this Act. On such effective date, the Iowa finance authority shall be the successor in interest to the agreements in effect between the United States government and the agricultural development authority on behalf of this state.

2. The United States, acting through the United States department of agriculture, and its officials, shall be held harmless against any liability arising out of the transfer of assets from the agricultural development authority to the Iowa finance authority, or from the Iowa finance authority carrying out the provisions of any agreement relating to the use by this state of the Iowa rural rehabilitation corporation assets under the management of agricultural development authority as contained in the Iowa rural rehabilitation corporation trust liquidation.

Sec. 36. EFFECTIVE DATE. This division of this Act takes effect July 1, 2013.

#### DIVISION IV

##### TRANSITIONAL PROVISIONS — REQUIREMENTS OF THE IOWA FINANCE AUTHORITY AND THE AGRICULTURAL DEVELOPMENT AUTHORITY

Sec. 37. GENERAL. The Iowa finance authority shall provide for the implementation of this Act according to a schedule approved by the Iowa finance authority's board of directors which is consistent with this Act.

Sec. 38. EMERGENCY RULEMAKING. The Iowa finance authority may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act, and the rules shall be effective July 1, 2013, unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 39. INTERAUTHORITY COOPERATION. The Iowa finance authority shall consult with the agricultural development board when implementing this Act. The agricultural development authority shall assist the Iowa finance authority in implementing this Act by providing for an effective transition of powers and duties from one authority to the other authority under chapter 175 and related administrative rules.

Sec. 40. EFFECTIVE UPON ENACTMENT. This division of this

Act, being deemed of immediate importance, takes effect upon enactment.

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KRAIG PAULSEN  
Speaker of the House

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PAM JOCHUM  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 607, Eighty-fifth General Assembly.

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CARMINE BOAL  
Chief Clerk of the House

Approved \_\_\_\_\_, 2013

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TERRY E. BRANSTAD  
Governor